IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE SRI BILAL NAZKI,THE ACTING CHIEF JUSTICE**

**and**
**THE HON'BLE SRI JUSTICE K.C. BHANU**

**WRIT PETITION NO : 13404 of 2005**

Between:

M/s. Shine Enterprises rep by Manager, Pallate Damodar,
S/o. Late P. Kesavulu, aged 48 years, C/o. M/s. Shine Enterprises,
19/66, Jok Palem Street, Rameswarampeta, Proddatur, Cuddapah District.

**..... PETITIONER**

AND

1 The Commissioner of Commercial Taxes, Government of Andhra Pradesh, Nampally, Hyderabad.
2 The Asst. Commercial Tax Officer, Check-post, Nagalapuram, Chittoor District.

**.....RESPONDENT(S)**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction, More specially in the nature of writ of Mandamus or any other appropriate direction declaring the action of the respondent No. 2 in demanding the entry tax on the Diesel driven, Air Compressor Machine, which does not come under the purview of the Andhra Pradesh Tax on entry of Goods into local areas, Act 2001 as illegal, void and ultra vires in the interest of justice and equity or to circumstances of the case

**Counsel for the Petitioner:MS.NASEEB AFSHAN**

**Counsel for the Respondent Nos.1 and 2: GP FOR COMMERCIAL TAXES**

**The Court made the following :**

ORAL ORDER: (per the Hon'ble Sri Bilal Nazki, ACJ)

An order of assessment is passed, by which, 16% tax has been levied on import of Diesel driven Air Compressor with 3 jack hammers and Compressor Air Conditioners in terms of Andhra Pradesh Tax on entry of Goods into local areas, Act, 2001 (for short "the Act"). When the goods were being imported, they were seized at the entry point and the petitioner filed a Writ Petition which was disposed of by this Court on 3rd March, 2005, being Writ Petition No. 3832 of 2005. The goods were released on payment of 8% tax subject to the enquiry. Enquiry has been held and the Assessing Officer has levied tax at 16%.

The petitioner claims that there was no enquiry before the order was passed, be that as it may, the order passed by the 2nd respondent is appealable under Section 19 of the Act.

In these circumstances, we are not inclined to entertain the writ petition and permit the petitioner to seek alternate remedy by filing an appeal.

The writ petition is accordingly dismissed. No costs.

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BILAL NAZKI, ACJ

DATE: 23rd June, 2005

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K.C. BHANU,J

Note: Original order of assessment be returned to the petitioner and copy be retained.

B/o

Pnb

To

1 The Commissioner of Commercial Taxes, Government of Andhra Pradesh, Nampally, Hyderabad.
2 The Asst. Commercial Tax Officer, Check-post, Nagalapuram, Chittoor District.

3 Two C.Cs. to the G.P. for Commercial Taxes, High Court Buildings, Hyderabad. (OUT)

4 Two C.D. copies